

In support of the restriction requirement, the Examiner has asserted that the device defined in the claims of group I could be made by processes materially different from the process defined in claim 23 in that "instead of performing a plating operation on the at least one layer in the upper conductor structure, sputtering and chemical vapor deposition can be used to form a metal layer on the at least one layer."

It is believed that the Examiner's view is unjustified with regard to claims 1-22 because parent claim 1 identifies the layer in question as "an electroplated or electrolessly plated metal plating layer", thereby excluding the formation of that layer by sputtering or chemical vapor deposition.

The Examiner's position is even more unjustified with regard to claim 24 since this is a product-by-process claim which specifically recites that the upper conductor structure is formed by "performing a plating operation in order to form a metal plating layer on the at least one layer". In fact, the last clause of claim 24 is identical to the last clause of elected claim 23. Since restriction requirements must be directed to the inventions as claimed, there is no reasonable basis for asserting that the device of claim 24 could be made by forming the metal plating layer by sputtering or chemical vapor deposition.

A more detailed comparison of claims 23 and 24 will reveal that the method of claim 23 can produce only the device of claim 24 and that the device of claim 24 can be produced only by the method of claim 23. Under these circumstances, there is simply no sound basis for insisting on restriction between claims 23 and 24.

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Since the basis for the restriction requirement is not applicable to claim 24, it is requested that the requirement be withdrawn with respect to claim 24, so that claims 23 and 24 may be examined in a single application.

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Respectfully submitted,

Date

  
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